

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ROGELIO "ROY" FERNANDEZ,)	
)	
Claimant,)	IC 02-019760
)	
v.)	
)	ORDER
KEVIN BURGEMEISTER,)	
)	Filed November 16, 2004
Employer,)	
)	
and)	
)	
WESTERN COMMUNITY INSURANCE)	
COMPANY,)	
)	
Surety,)	
)	
Defendants.)	
)	

Pursuant to Idaho Code § 72-717, Referee Michael E. Powers submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has failed to prove his left shoulder rotator cuff tear was caused by his industrial accident.
2. The remaining issues of apportionment, medical, and TTD benefits are moot.

3. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this _16th_ day of __November____, 2004.

INDUSTRIAL COMMISSION

____/s/_____
R.D. Maynard, Chairman

____/s/_____
Thomas E. Limbaugh, Commissioner

____/s/_____
James F. Kile, Commissioner

ATTEST:

____/s/_____
Legal Associate

CERTIFICATE OF SERVICE

I hereby certify that on the _16th_ day of __November____, 2004, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

FRED J LEWIS
PO BOX 1391
POCATELLO ID 83204-1391

ERIC S BAILEY
PO BOX 1007
BOISE ID 83701

____/s/_____

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